

From: David Eckman
To: West Virginia Attorney General,Utah Attorney Gener...
Date: 11/26/01 12:13pm
Subject: Microsoft Case Settlement

I urge you NOT to agree to the settlement terms with Microsoft that the federal government has. Following are several reasons, based on my extensive use of computers since 1983, my knowledge of and experience with many operating systems and in developing software:

As an OS/2 user, I have been damaged by Microsoft's illegal tying agreements to gain a monopoly and its retaliatory and predatory use of its monopoly power. What will punish Microsoft most effectively while also stimulating its competition would be an order requiring it to LICENSE _AT NO COST to the licensee_ all code necessary (1) to allow all other operating systems to run 32-bit (and eventually higher level) Windows programs and (2) to allow other developers' software to run as effectively under Windows as Microsoft's own programs.

Those licenses should be given to everyone who is working to enhance any operating system, including developers who produce add-ons or plugins for such systems. With such an order, a more level field will be achieved. Such cost-free licensing should be required for a minimum of 20 years, to allow other operating systems to strengthen and grow in usage to the point where software program developers will produce native versions of their software for such systems. The history of OS/2 shows that this would work:

While Windows was a 16-bit system, OS/2 use grew and native applications were being developed, because of OS/2's ability to run 16-bit Windows programs. OS/2's market position and its growing acceptance were then seriously hurt by Microsoft's predatory and illegal actions. Despite Microsoft's illegal conduct, however, OS/2 has remained alive because of its superiority as an operating system over everything Microsoft has issued thus far, but it cannot return to marketing success without the ability to run applications that most users want. In fact, IBM has been forced to scale back further work on OS/2, and it has almost given up on it because of Microsoft's pressure on it and the difficulty of dealing with Microsoft's illegal use of its monopoly power. OS/2 could return to effective competition with licenses of Microsoft's operating system code, at no cost to IBM and/or those who might want to enhance the system if IBM chooses not to do it.

Microsoft has also used its monopoly illegally to harm the Java technology, which is an open software. Java developers have felt the stinging impact of Microsoft's illegal behavior. Its consequences in the future may be even more severe if the federal government's weak legal precedent is established.

Finally, Microsoft has violated with impunity consent decrees of the past.

It should be ordered to pay a substantial fine. It should also be ordered to pay all costs of monitoring its compliance in the future. This should continue for at least 20 years.

IBM was severely punished over 20 years ago for its antitrust behavior. It then managed to behave in a responsible manner. There is no reason why Microsoft should not be similarly punished now.

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